

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION**

WILLIAM BRITAIN QUARTZ,

Plaintiff,

V.

CITY OF KEMAH, TEXAS,  
JERRY G. BARMORE, MATTHEW L.  
MACIK, and JARROD C. MCCORMICK,

Defendants.

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CIVIL ACTION NO. G-06-CV-601

## ORDER OF DISMISSAL WITHOUT PREJUDICE


Plaintiff William Britain Quartz (“Plaintiff”) brought this action against Defendants for alleged violations of Plaintiff’s Fourth and Fourteenth Amendment rights. The City of Kemah (“Kemah”) filed a Motion to Dismiss on November 22, 2006. The Parties appeared for a Scheduling Conference on December 6, 2006, and the Court set the following deadlines: dispositive motions were due by March 9, 2007, responses were due by March 30, 2007, and replies were due by April 6, 2007. On March 9, 2007, Defendants Jerry G. Barmore, Matthew L. Macik, and Jarrod C. McCormick (the “Officers”) filed a Motion for Summary Judgment. The Court did not receive responses to either dispositive motion by the March 30 deadline. On May 3, 2007, the Court’s case manager contacted Plaintiff’s attorney, and he informed the Court’s case manager that his client was deceased. Plaintiff’s attorney indicated that he did not intend to pursue the case. The next day, the Court’s case manager attempted to contact Plaintiff’s counsel again to request that Plaintiff’s counsel file a Motion to

Dismiss if he did not wish to pursue the case, but, after repeated attempts, including an email, Plaintiff's counsel did not respond.

The Court could grant the Officers' Motion for Summary Judgment since Plaintiff failed to raise an issue of material fact. However, the Court, in an effort to avoid any inadvertent prejudice to the rights of Plaintiff's survivors, finds that a better course is to dismiss the case without prejudice. Therefore, Plaintiff's case is hereby **DISMISSED WITHOUT PREJUDICE**. Each Party to bear its own taxable costs, expenses, and attorneys' fees incurred herein to date. A Final Judgment will be issued contemporaneously with this Order.

**IT IS SO ORDERED.**

**DONE** this 14th day of May, 2007, at Galveston, Texas.

  
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Samuel B. Kent  
United States District Judge